

# EXHIBIT 2

13:29:38

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

3 - - - - - X  
 4 MOOG INC., ) 22-CV-187  
 Plaintiff )

5 vs.

6 SKYRYSE, INC., et al ) Buffalo, New York  
 Defendant. ) August 25, 2022  
 7 - - - - - X

**DISCOVERY HEARING****Proceeding held via Zoom for Government Platform****All parties appeared remotely.****Transcribed from audio of Zoom for Government Platform**

8  
 9  
 10 TRANSCRIPT OF PROCEEDINGS  
 BEFORE THE HONORABLE JEREMIAH J. MCCARTHY  
 UNITED STATES MAGISTRATE JUDGE  
 11

12 FOR PLAINTIFF: SHEPPHARD MULLIN RICHETER & HAMPTON, LLP  
 BY: RENA ANDOH, ESQ.  
 13 LAI YIP, ESQ.  
 KAZIM A. NAQVI, ESQ.  
 14 TRAVIS ANDERSON, ESQ.  
 TYLER BAKER, ESQ.

15 -and-

HODGSON RUSS, LLP  
 16 BY: ROBERT J. FLUSKEY, JR, ESQ.  
 PAULINE THECLA MUTO, ESQ.  
 17 REETUPARNA DUTTA, ESQ.  
 MELISSA SUBJECK, ESQ.  
 18

19 FOR DEFENDANT: LATHAM & WATKINS, LLP  
 BY: DOUGLAS E. LUMISH, ESQ.  
 GABRIEL S. GROSS, ESQ.  
 20 KELLEY STOREY, ESQ.  
 CASSANDRA M. BALOGA, ESQ.  
 21 JULIANNE CATHERINE OSBORNE, ESQ.  
 RYAN T. BANKS, ESQ.  
 22 JOSEPH LEE, ESQ.  
 ARMAN ZAHOORY, ESQ.  
 23

24 **COURT REPORTER: Karen J. Clark, Official Court Reporter**  
 25 **Karenclark1013@AOL.com**

1  
2 **FOR DEFENDANT**

**PILKINGTON/KIM: WINGET, SPADAFORA & SCHWARTZBERG, LLP**

3 **BY: ALEXANDER ASHER TRUITT, ESQ.**

4 **ANTHONY D. GREEN, ESQ.**

**ANNABEL MIRALES, ESQ.**

5  
6 **P R O C E E D I N G**

\* \* \*

12:32:19

12:32:19

12:33:14

12:57:08

12:57:13

12:57:15

12:57:15

12:57:20

12:57:20

12:57:22

12:57:25

12:57:25

12:57:27

12:57:35

12:57:41

12:57:49

12:57:54

12:57:58

8  
9  
10 MAGISTRATE JUDGE MCCARTHY: Good afternoon,  
11 everyone, or good morning and good afternoon, I should  
12 say.

13 MR. GROSS: Good morning.

14 MS. ANDOH: Good afternoon, your Honor.

15 MR. TRUITT: Good afternoon.

16 MAGISTRATE JUDGE MCCARTHY: Okay. Eric,  
17 have we noted the appearances or go ahead and call the  
18 case.

19 THE CLERK: I will, Judge. We're on the  
20 record in civil proceeding 22-CV-187, Moog Inc v Skyrise  
21 Inc., et al for oral argument. Present by video are  
22 Rena Andoh, Kazim Naqvi, Lai Yip, Travis Anderson,  
23 Pauline Muto, Tyler Baker, Robert Fluskey, Melissa  
24 Subjeck and Reena Dutta, are for Plaintiff Moog.

25 For Defendant Skyrise are Douglas Lumish,

1 MOOG, INC. VS. SKYRYSE, INC. ET AL.

12:58:35 2 Gabriel Gross, Ryan Banks, Arman Zahoory, Julianne  
12:58:39 3 Osborne, Jerri Looney, Terrance Flynn, Cassandra Baloga  
12:58:46 4 and Kelly Storey.

12:58:47 5 And for the individual Defendants are  
12:58:49 6 Alexander Truitt, Anthony Green and Annabel Mirales.

12:58:56 7 The Honorable Jeremiah J. McCarthy  
12:58:57 8 presiding.

12:58:58 9 MAGISTRATE JUDGE MCCARTHY: Okay. Welcome  
12:59:00 10 again. And, as you know, we're going to discuss several  
12:59:05 11 motions today, not all of the motions that are pending,  
12:59:09 12 but the ones that I had indicated. And what I want to  
12:59:13 13 do is segment the discussion. I want to begin with the  
12:59:19 14 discussion of jurisdiction and venue, but solely for  
12:59:26 15 purposes of the preliminary injunction motion, not for  
12:59:31 16 purposes of the remainder of the case, because that  
12:59:35 17 issue does not need to be decided right now. Next,  
12:59:40 18 after that, I want to discuss the motions relative to  
12:59:48 19 Pilkington and Kim's effort to claw back their devices  
12:59:54 20 and Moog's motion for access to the devices. Following  
13:00:00 21 that, we will discuss Moog's motion for clarification.  
13:00:05 22 So, I assure you, I don't have total recall of  
13:00:10 23 everything. But, I have spent a good deal of time  
13:00:14 24 trying to get ready for today's argument. I have  
13:00:17 25 reviewed the relevant papers in considerable detail and

1 MOOG, INC. VS. SKYRYSE, INC. ET AL.

13:27:54 2 documents 33 and 25 both say for the purpose of the  
13:27:58 3 stipulation and no other purpose. So, I respectfully  
13:28:03 4 submit that Skyryse -- I'm sorry -- that Moog is arguing  
13:28:07 5 that a stipulation to adjourn now suddenly puts the  
13:28:11 6 entire proceeding within the Court's jurisdiction. I  
13:28:15 7 would submit that is another purpose.

13:28:19 8 Second, document 33 says any and all  
13:28:22 9 challenges to jurisdiction or venue in the Western  
13:28:25 10 District of New York are expressly preserved. That is  
13:28:28 11 what is happening with these Rule 12 motions. There are  
13:28:31 12 challenges to the jurisdiction and venue of the Western  
13:28:34 13 District of New York. Thank you.

13:28:35 14 MAGISTRATE JUDGE MCCARTHY: All right.  
13:28:36 15 Thank you, counsel.

13:28:39 16 I've given a lot of thought to this and I  
13:28:42 17 suppose, in one sense, which forum will hear the  
13:28:52 18 preliminary injunction motion is not something that  
13:28:56 19 needs to be decided now, because however you slice it,  
13:29:01 20 it's probably a ways down the road. Nonetheless, to  
13:29:05 21 avoid any confusion and to give the parties an  
13:29:09 22 opportunity to seek review by Judge Vilardo, if they  
13:29:14 23 wish, I'm going to tell you my thoughts and what I am  
13:29:19 24 going to do on this issue and on the other issues we're  
13:29:24 25 going to be discussing today, is, I will tell you what

1 MOOG, INC. VS. SKYRYSE, INC. ET AL.

13:31:27 2 There would be no point to talking about scheduling a  
13:31:31 3 preliminary injunction hearing. In fact, they did  
13:31:37 4 schedule the preliminary injunction hearing subject to  
13:31:40 5 the Court's availability. But, there would be no point  
13:31:44 6 in talking about that if this were not the Court that  
13:31:47 7 was going to conduct the hearing. That, in a nutshell,  
13:31:51 8 is my reasoning. I think it's the only fair reading  
13:31:59 9 that can be given to the two stipulations and orders,  
13:32:03 10 and, therefore, I think that, irrespective of where the  
13:32:06 11 rest of the case will be conducted, the preliminary  
13:32:11 12 injunction hearing should take place in the Western  
13:32:15 13 District of New York. I will elaborate on that in more  
13:32:21 14 detail in my written decision. Having said that,  
13:32:25 15 though, I want to offer a few other observations.  
13:32:29 16 First, with respect to the remainder of the case, and  
13:32:31 17 that is not something that I'm going to be deciding  
13:32:33 18 today, but if and when that issue has to be decided,  
13:32:40 19 even if there is personal jurisdiction over the  
13:32:43 20 remainder of the case, and I don't say whether there is  
13:32:47 21 or not, based on what I've seen, I think there is a  
13:32:52 22 compelling case or argument to be made that the  
13:32:55 23 remainder of the case should be transferred to the  
13:32:59 24 Central District of California based on convenience of  
13:33:03 25 the parties, convenience of witnesses, coupled with the

1 MOOG, INC. VS. SKYRYSE, INC. ET AL.

13:33:06 2 fact that there is now an ongoing criminal investigation  
13:33:11 3 in the Central District of California. Again, to be  
13:33:14 4 clear, I'm not deciding that issue right now. That  
13:33:17 5 might be affected by, you know, what occurs between now  
13:33:20 6 and the time of the preliminary injunction hearing and  
13:33:23 7 how familiar this Court has become with the issues;  
13:33:26 8 vis-à-vis, court in the Central District of California.  
13:33:31 9 I will just say that the parties should keep in mind the  
13:33:35 10 possibility, at least, which I consider to be more than  
13:33:38 11 a minimal possibility, that irrespective of where the  
13:33:42 12 preliminary injunction is heard, the remainder of the  
13:33:49 13 case may well be transferred to the Central District of  
13:33:52 14 California. I also want to point out for Moog's  
13:33:55 15 benefit, and I think, Mr. Gross, you alluded to this,  
13:33:58 16 but we did a little checking on our own, and I don't say  
13:34:02 17 this to shirk any responsibility, because I will not be  
13:34:06 18 the one conducting the preliminary injunction hearing,  
13:34:10 19 in any event, but in this district, in Buffalo, we have  
13:34:15 20 two active district judges, Judge Vilardo and Judge  
13:34:20 21 Sinatra. In the Central District of California -- we  
13:34:22 22 also have, in fairness, we have two senior status  
13:34:26 23 district judges, God bless them, Judge Arcara and Judge  
13:34:31 24 Skretny, who are basically working full time. But by  
13:34:35 25 contrast, the Central District of California has, I

1 MOOG, INC. VS. SKYRYSE, INC. ET AL.

13:34:37 2 believe, 34 district judges. So, in terms of how  
13:34:45 3 quickly a preliminary injunction hearing could be  
13:34:48 4 scheduled, I think there is a good argument that you  
13:34:50 5 might get to a hearing more quickly in the Central  
13:34:55 6 District of California than you would here.  
13:34:57 7 Nonetheless, I think there is a contractual basis for  
13:35:01 8 holding the hearing here, and so that will be my ruling.  
13:35:07 9 If Judge Vilardo wants to take a different view of it,  
13:35:10 10 well, that certainly is his prerogative.

13:35:15 11 Let's move on now to the companion motions  
13:35:20 12 of -- and just to be clear, for that reason, I am also  
13:35:25 13 denying Skyryse's motion to submit a supplemental reply  
13:35:31 14 brief, which is docket No. 247, I believe. That will  
13:35:36 15 obviously be part of the record if somebody wants to  
13:35:41 16 make further argument to Judge Vilardo and if he wants  
13:35:44 17 to consider it, I presume he would give, at that point,  
13:35:48 18 would give Moog an opportunity to reply to that. But  
13:35:52 19 that would be his call.

13:35:55 20 Let's turn then to the -- the motions -- the  
13:36:00 21 claw back motions and Moog's motion for access to the  
13:36:04 22 individual Defendant's devices. And I'll hear from  
13:36:09 23 whoever wants to be heard in that regard.

13:40:16 24 MR. FLUSKEY: Your Honor, I can begin on the  
13:40:18 25 restoration, if that is acceptable to the Court.

MOOG, INC. VS. SKYRYSE, INC. ET AL.

S/ Karen J. Clark, RPR

Official Court Reporter